

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Matt Blunt, Governor • Doyle Childers, Director

www.dnr.mo.gov

JUL 20 2005

Hazardous Waste Management Commissioners

RE: Variance Order Case No. HW-05-2V
Midwest Oil Refining Company
1900 Walton Road
St. Louis, Missouri 63114


Dear Commissioners:

Enclosed is a copy of Midwest Oil Refining Company's request for a variance. The department has reviewed the variance petition and determined it to be a non-substantive petition. The department recommends that the Commission approve the transporter's variance request as outlined in the attachments to this letter. If no request for a public hearing is received within 30 days of the posting of the notice, the department plans to request that the Commissioner's sign the petition for the variance at its meeting on October 11, 2005. A draft petition is enclosed pursuant to Section 260.405, RSMo. The department intends to introduce this as an information only item at the Commission meeting on August 11, 2005.

If you have any questions, or would like more information, please contact Mr. David Giarratano, of my staff, at (573) 751-2246 or me at (573) 751-2747, or at the Missouri Department of Natural Resources, Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176. Thank you.

Sincerely,

HAZARDOUS WASTE PROGRAM



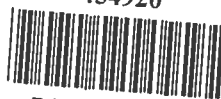
Robert Geller
Interim Director

RG:dgh

Enclosures

c: Ms. Kara Valentine, Air and Land Protection Division,
Missouri Department of Natural Resources
Ms. Shelley Woods, Attorney General's Office

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RCRA RECORDS

REC'D

JUL 25 2005

RESP

Missouri Hazardous Waste Management Commission Meeting
August 11, 2005
Agenda Item
Variance Petition Recommendation for Midwest Oil Refining Company (Midwest)
1900 Walton Road, St. Louis, Missouri

Issue: Midwest has applied for a second variance from paying a full hazardous waste transporter license fee. On February 10, 2005, the Hazardous Waste Management Commission (Commission) approved Midwest's first request for a variance from paying \$3,323 of the \$3,623 license fee for the license year beginning June 30, 2004. On May 20, 2005, Midwest requested a variance to relieve it from paying \$3,419 of the \$3,719 license fee for 2005. Midwest has paid (and the department accepted) \$300 for its license fee for 2005 as it did in 2004.

Information:

- Midwest is a used oil refiner and transporter of used oil, antifreeze, and kerosene in business since 1936. It currently employs six people.
- Midwest states that the changes in the transporter license fee program mandated by Senate Bill 577 raised the company's fee schedule for three trucks from \$300 before the change to the current balance of \$3,719 and that the company cannot pay this fee and remain in business.
- Midwest claims to only drive in state and that the company's fees are unreasonably high because they are calculated on number of loads (and partial loads are counted as total loads, placing them in a higher fee category), gross weight of trucks, and number of miles driven.
- The Hazardous Waste Program has fully investigated this variance request and has deemed it a non-substantive variance.
- The department believes that granting the variance will not permit the occurrence or continuance of a condition that unreasonably poses a present or potential threat to the health of humans or other living organisms.
- We recommend that the Commission grant the variance request without conditions.
- We have notified the petitioner of the recommendation and published a legal notice in a newspaper with circulation in facility area. We also mailed a notice regarding the recommendation to all record owners of adjoining property, the highest elected official of the county and the highest elected official of the city, town, or village where the facility is located.
- If no requests for hearing on the petition are received from either the petitioner or any aggrieved person within 30 days of the date that the notice of recommendation, the department intends to request that the Commission sign an order approving the variance at its meeting October 13, 2005.

Recommended Action: Information only.

MISSOURI DEPARTMENT OF NATURAL RESOURCES' RECOMMENDATION ON
MIDWEST OIL REFINING COMPANY VARIANCE PETITION ENF-05-1V TO THE
HAZARDOUS WASTE MANAGEMENT COMMISSION

Introduction

Midwest Oil Refining Company (Midwest Oil), 1900 Walton Road, St. Louis, Missouri, has requested a variance from Missouri Hazardous Waste Management Regulation 10 CSR 25-12.010(2)(C). The variance request was received May 20, 2005, and was evaluated by the department as required by 10 CSR 25-8.124(5)(B). Midwest Oil is in the recycling business. It hauls only used oil, antifreeze, and kerosene. It has held a Missouri Hazardous Waste Transporter License since 1980, renewing the license annually. From 1997 to 2002, the company's yearly license fee was \$300. Midwest Oil requested and was granted a variance relieving it from paying \$3,322 of the \$3,623 license fee for its new license year beginning June 30, 2004. This variance petition, if granted by the Hazardous Waste Management Commission (Commission), would give Midwest Oil another one-year variance relieving it from the \$3,419 of the \$3,719 license fee calculated for its new license year beginning June 30, 2005. Midwest Oil has paid \$300 for its license for the year beginning June 30, 2005.

Background

Midwest Oil has been in business since 1936 and currently employs six people. It is a used oil refiner and transporter. This small company maintains that it cannot afford the sudden increase in its transporter license annual fees from \$300 under the old per-vehicle calculation (which was in effect until September 2002) to \$3,454 in 2003, \$3,623 in 2004, and \$3,719 in 2005. The latter fees were calculated using total licensed vehicle weight, percentage of company miles in Missouri, and percentage of Missouri loads that are hazardous waste. The company has written that it had to borrow the money in 2003 to pay the license fee but is unable to do so this year. Yet, without the license, the company cannot comply with the regulation requiring full payment of the fee for a transporter license. A hazardous waste transporter license is required to transport used oil.

Because Midwest Oil drives all its miles in Missouri, and because most of the company's loads are hazardous waste, the state mileage and hazardous waste load percentages are very high, resulting in a more than tenfold increase in transporter fees. This is especially hard on a small company whose total yearly mileage of all three trucks combined is only 17,910 miles – about what an average person drives in his own car in a year.

Since Midwest Oil's hazardous waste transporter license was due to expire on June 30, 2005, the department's Hazardous Waste Program (HWP) agreed to accept \$300 temporarily as the renewal license fee pending the Commission's decision on the variance. Payment was made, and the company's transporter license has been renewed, with the possibility of more money due.

The department has determined that this variance petition is "non-substantive" based on state statutory and regulatory criteria. All public notification procedures will be completed. The department is submitting this recommendation to the Commission as required by 10 CSR 25-8.124(5)(C).

Recommendation

The HWP has fully investigated the variance request. This request is a variance from payment of the hazardous waste transporter fee, which is currently calculated based on vehicle weight, percentage of miles in Missouri, and percentage of loads that are hazardous waste. Midwest Oil has paid its previous rate of \$300 and requests a variance from payment of the balance of \$3,419 of the current rate of \$3,719. Midwest Oil has provided the department with sufficient evidence

**MISSOURI DEPARTMENT OF NATURAL RESOURCES
RECOMMENDS APPROVING VARIANCE FOR
MIDWEST OIL REFINING COMPANY**

The Missouri Department of Natural Resources (MDNR) received a variance petition from Midwest Oil Refining Company (Midwest) on May 20, 2005. MDNR reviewed the variance petition (petition) and determined it to be a non-substantive variance. MDNR recommends that the Hazardous Waste Management Commission (HWMC) approve the petition. The public is invited to review the petition and MDNR's recommendation.

Midwest is an active used oil transporter, located at 1900 Walton Road, St. Louis, Missouri. Midwest has been in business since 1936 and has held a license for used oil transportation since 1980.

In order to transport used oil in the state of Missouri, a company must apply for a hazardous waste transporter license and submit the appropriate fees. If the HWMC approves the petition, Midwest would be given a one-year relief from the current fee formula for the year beginning June 30, 2005, and would be required to pay under the previous fee structure. Midwest had requested and was granted a variance from the HWMC relieving it from paying part of their license fee for the year beginning June 30, 2004.

A copy of Midwest's petition can be viewed and copied at the following locations:

St. Louis County Library
Bridgeton Trails Branch
3455 McKelvey Road
Bridgeton, Missouri
Hours: 9:00 a.m. to 9:00 p.m. - Monday through Thursday
9:00 a.m. to 5:00 p.m. - Friday and Saturday

A copy may also be viewed by appointment at either of the following MDNR offices:

St. Louis Regional Office
7545 South Lindbergh Boulevard, Suite 210
St. Louis, Missouri
Phone: (314) 416-2960

Hazardous Waste Program
1738 East Elm Street (lower level)
Jefferson City, Missouri
Phone: (573) 522-3345

Anyone who objects to the approval of the variance may request a public hearing by filing a hearing request within 30 days of this notice to Mr. David Giarratano, MDNR, Hazardous Waste Program, Compliance/Enforcement Section, P.O. Box 176, Jefferson City, Missouri 65102-0176.

If no public hearing is requested, the HWMC can decide on the matter no sooner than 30 days from the date of MDNR's recommendation. For more information, please contact Mr. Giarratano at 1-800-361-4827 or (573) 751-2246.